

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 10 - 19 are pending in the application. Currently, all claims have been rejected.

By the present amendment, claim 10 has been amended to include the limitation that "each of said arms having an outer elbow portion formed from a stretch fabric material..." Support for this amendment can be found in original FIG. 5.

In the office action mailed April 7, 2004, claims 10 - 13 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,722,099 to Kratz; claims 14 - 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kratz in view of U.S. Patent No. 5,593,754 to Blauer et al.; and claims 17 - 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kratz in view of U.S. Patent No. 2,002,955 to Lipson.

The foregoing rejections are traversed by the present response.

The present invention relates to a garment to be worn by a human being, which garment has a front portion and a rear portion, and a pair of arms joined to the front and rear portions. As shown in FIG. 5, each of the arms has an outer elbow portion formed from a stretch fabric material and other portions formed from a non-stretch fabric material and underarm portions formed from a stretch fabric material.

It is submitted that none of the cited and applied patents teach or suggest the combination of features set forth in amended claim 10. In particular, the Kratz patent lacks an outer elbow portion formed from a stretch fabric material. Kratz relates to a motorcycle garment which has vent portions to

maximize cooling. The jacket shown in FIGS. 2 and 3 of Kratz has mesh underarm portions, a mesh inner elbow portion, and mesh portions on the front and back of the jacket. As pointed out in column 5, line 44 et seq., the vents are shaped and positioned to provide maximum air flow utilizing those areas of the jacket which are least likely to come into abrasive contact with the pavement or other surface during an accident. The elbow vents are provided at the cyclists inner elbows, because these areas are rarely abraded. To provide adequate protection, the back of the jacket is fabricated from an abrasion resistant material. The only mention of a flexible cloth mesh is for the element 116 which is provided to keep out bugs or other debris which might otherwise pass through the scoop 106. While Kratz says that the jacket may be constructed from natural or artificial leather, Kratz is totally silent as to whether either of these materials is stretchable or non-stretchable. This is because Kratz is indifferent on this subject.

Claim 10 is allowable because Kratz does not teach or suggest forming an outer elbow portion from a stretchable fabric material. Claim 10 is further allowable because Kratz never says that other portions of the arms are formed from a non-stretch fabric material and never says that the underarm portions are formed from a stretch fabric material. The Examiner's position on these latter points is without any foundation in Kratz. The Examiner assumes that the stretch fabric 116 is used throughout Kratz, but Kratz does not say that. It is not inherent that the mesh of Kratz has any stretch. Its sole purpose is to provide ventilation which can be accomplished with a non-stretch mesh material. Similarly, the Examiner's statements about the construction of the artificial leather is without foundation in Kratz. If one looks at the stretch marks on the embodiment of

FIG. 8, it appears to Applicant that the non-mesh portions of Kratz' jacket are intended to stretch.

Claims 11 - 13 are allowable for the same reasons as claim 10 as well as on their own accord.

The rejections of claims 14 - 19 are duly noted; however, the secondary references to Blauer et al. and Lipson do not overcome the above-noted deficiencies of Kratz.

For the foregoing reasons, the instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, she is hereby invited to contact Applicant's attorney at the telephone number listed below.

A request for a one (1) month extension of time is enclosed herewith along with a check in the amount of \$110.00. Should the Commissioner determine that an additional fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

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I, Nicole Motzer, hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313" on August 9, 2004.

